

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

<b>JOSE MONTANEZ,</b>	:	<b>No. 3:22-cv-1267</b>
Plaintiff	:	
	:	<b>(Judge Mariani)</b>
<b>v.</b>	:	
	:	<b>Electronically Filed Document</b>
<b>PAULA PRICE, et al.,</b>	:	
Defendants	:	

**MOTION TO DISMISS THE AMENDED  
COMPLAINT**

Defendants Price, Wagman, Davis, Ellers, Wakefield, Patton, Rivello, and The Commonwealth of Pennsylvania, Department of Corrections (collectively, “Commonwealth Defendants”), hereby move, pursuant to FED. R. CIV. P. 12(b)(6), to dismiss Plaintiff’s Amended Complaint for failure to state a claim upon which relief can be granted. A brief in support of this motion will be filed concurrently in accordance with L.R. 7.5.

**Respectfully submitted,**

**MICHELLE HENRY  
Acting Attorney General**

By: s/ Francis H. Pryzbylkowski  
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**Deputy Attorney General**  
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Civil Litigation Section

Date: February 10, 2023

*Counsel for Defendants Price, Wagman,  
Davis, Ellers, Wakefield, Patton, Rivello,  
and DOC*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

**JOSE MONTANEZ,**

: **No. 3:22-CV-1267**

**Plaintiff :**

: **Judge Mariani**

**v.**

:

: **Electronically Filed Document**

**PAULA PRICE, DR. MAHLI,  
GABRELLE NALLEY, NURSE MEL,**

:

**DR. PRESTON, R. ELLERS, DR.**

: *Complaint Filed 08/12/22*

**EDWARDS, MARY PATTON, C.**

:

**WAKEFIELD and N. DAVIS,**

:

**Defendants :**

**CERTIFICATE OF SERVICE**

I, Francis H. Pryzbylkowski, Deputy Attorney General for the Commonwealth of Pennsylvania, Office of Attorney General, hereby certify that on February 10, 2023, I caused to be served a true and correct copy of the foregoing document titled Motion to Dismiss the Amended Complaint to the following:

**VIA U.S. MAIL**

**Smart Communications/PADOC<sup>1</sup>**

**Jose Montanez, KW-8233**

**SCI Huntingdon**

**P.O. Box 33028**

**St. Petersburg, FL 33733**

*Pro Se Plaintiff*

*s/ Francis H. Pryzbylkowski*  
**FRANCIS H. PRYZBYLKOWSKI**  
Deputy Attorney General

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<sup>1</sup> Pursuant to a change to the Department of Corrections' mail procedures, all mail, except mail from an inmate's attorney or from a court, must be processed through the vendor listed.